REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed November 16, 2005. In the Action, the Examiner notes that claims 1-60 are pending, of which claims 1-60 stand rejected. By this response, Applicants cancel claims 1-60 and present new claims 61-64 for consideration.

In view of the following discussion, the Applicants submit that none of the claims now pending in the application are anticipated or obvious under the provisions of 35 U.S.C. §102 and §103, respectively. Therefore, Applicants believe that this application is now in condition for allowance.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

REJECTIONS

35 U.S.C. §102

Claims 20-25, 27-29, 31, 34, 35, 37-47, 49, and 50

The Examiner has rejected claims 20-25, 27-29, 31, 34, 35, 37-47, 49 and 50 under 35 U.S.C. §102(b) as being anticipated by McKenna (U.S. Patent 4,816,904, hereinafter "McKenna").

This rejection is moot in light of the cancellation of claims 1-60. In addition, new claims 61-65 are not anticipated by McKenna.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Independent claim 61 recites: (and independent claim 64 recites similar elements)

> 61. A system, comprising:
> a switching engine for receiving a plurality of group assignment rules and a switching plan and for switching at least one program channel to at least one feeder channel according to the switching plan, the feeder channel being an ancillary channel for providing a plurality of advertisements based on a group assignment in the group assignment rules;
> a group assignment rules processor engine for managing the group assignment rules by allowing a viewer to review the group assignment rules and by processing any input from the viewer to modify or override of any of the group assignment rules; and
> a data collection engine for collecting information including advertisements watched data and any changes to the group assignment rules for use in future advertising targeting. (emphasis added)

The McKenna fails to teach each and every claim element as arranged in the claim. For example, McKenna fails to teach that the viewer can modify or override the group assignment rules used for targeting advertising. The Examiner points to the fact that McKenna discloses a survey questionnaire that is displayed and answers that are recorded. (See McKenna, col. 7, lines 27-38.) The survey questionnaire answers are not the same as group assignment rules, because they are simply recorded. Such a questionnaire is passive and nothing is being modified or overridden. It is simply not the same as the claimed group assignment rules.

Therefore, independent claim 61 is patentable over McKenna under §102, because McKenna fails to teach at least that the viewer can modify or override the group assignment rules used for targeting advertising.

Independent claim 64 recites similar relevant limitations and, therefore, for at least the same reasons as discussed above, independent claim 64 is also patentable over McKenna under §102. Claims 62, 63, and 65 depend directly or indirectly from independent claims 61 and 64 and, thus, inherit the patentable subject matter of independent claims 61 and 64, while adding or further defining additional elements. Therefore, claims 61-65 are patentable over McKenna under §102 for at least the same reasons that claims 61 and 64 are patentable over McKenna under §102.

As such, Applicants respectfully request that the Examiner's rejection of claims under 35 U.S.C. §102(e) be withdrawn.

35 U.S.C. §103

Claims 1-11, 13, 14, 16, 19, 26, 36, 48, 52, 53, 55-57 and 60

The Examiner has rejected claims 1-11, 13, 14, 16, 19, 26, 36, 48, 52, 53, 55-57 and 60 as being unpatentable over McKenna. This rejection is moot in light of the cancellation of claims 1-60. For at least the reasons given above, new claims 61-65 are patentable over McKenna under §103.

Claims 12, 15, 32, 51, and 54

The Examiner has rejected claims 12, 15, 32, 51, and 54 under 35 U.S.C. §103(a) as being unpatentable over McKenna in view of Baji (U.S. Patent 5,027,400, hereinafter "Baji"). This rejection is moot in light of the cancellation of claims 1-60. For at least the reasons given above, new claims 61-65 are patentable over McKenna and Baji under §103, because Baji also fails to teach at least that the viewer can modify or override the group assignment rules used for targeting advertising.

Claims 17, 30 and 58

The Examiner has rejected claims 17, 30 and 58 under 35 U.S.C. §103(a) as being unpatentable over McKenna in view of Kauffman (U.S. Patent 5,260,778, hereinafter "Kauffman"). This rejection is moot in light of the cancellation of claims 1-60. For at least the reasons given above, new claims 61-65 are patentable over McKenna and Kauffman under §103, because Kauffman also fails to teach at least that the viewer can modify or override the group assignment rules used for targeting advertising.

Claim 33

The Examiner has rejected claims 18 and 59 under 35 U.S.C. §103(a) as being unpatentable over McKenna in view of Vogel (U.S. Patent 4,930,160, hereinafter "Vogel"). This rejection is moot in light of the cancellation of claims 1-60. For at least

the reasons given above, new claims 61-65 are patentable over McKenna and Vogel under §103, because Vogel also fails to teach at least that the viewer can modify or override the group assignment rules used for targeting advertising.

Claims 18 and 59

The Examiner has rejected claims 18 and 59 under 35 U.S.C. §103(a) as being unpatentable over McKenna in view of Kauffman as applied to claims 17 and 58 above, and further in view of Vogel. This rejection is moot in light of the cancellation of claims 1-60. For at least the reasons given above, new claims 61-65 are patentable over McKenna, Kauffman, and Vogel under §103, because Kauffman and Vogel also fail also to teach at least that the viewer can modify or override the group assignment rules used for targeting advertising.

SECONDARY REFERENCES

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration of this application and its swift passage to issue. If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Lea Nicholson at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

03/16/06

Lea Nicholson
Attorney for Applicants
Reg. No. 48,346
(732) 530-9404

Patterson & Sheridan, LLP
Attorneys at Law
595 Shrewsbury Avenue
Suite 100
Shrewsbury, NJ 07702